

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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|-----------------------------|---|------------------------------|
| UNITED PUBLIC WORKERS, |) | CIVIL NO. CV03-00598 DAE LEK |
| AFSCME, LOCAL 646, AFL-CIO, |) | |
| MUTUAL AID FUND TRUST, |) | DECLARATION OF DAYTON |
| |) | NAKANELUA |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| GARY RODRIGUES, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

DECLARATION OF DAYTON NAKANELUA

1. I am the current State Director of the United Public Workers, AFSCME Local 646, AFL-CIO ("UPW"). I am also the current Plan Administrator for the UPW Mutual Aid Fund Trust ("MAF Trust") and in that capacity I am the custodian of records for the MAF Trust's Trustees Meeting Minutes, Agendas, and related documents. I make the statements below based upon personal knowledge and am competent to testify to the same.

2. Attached as Exhibit "A" is a true and correct copy of the Mutual Aid Fund Trustees Meeting Minutes for February 19, 1999. This is the first meeting minute referencing Best Rescue Systems, Inc.

3. Attached as Exhibit "B" is a true and correct copy of the

Mutual Aid Fund Trustees Meeting Agenda for June 19, 1999, together with a copy of the 1998 audited Financial Statements referenced in the Agenda. This is the first Financial Statement to specifically reference Best Rescue Systems, Inc.

4. Attached as Exhibit "C" is a true and correct copy of the Mutual Aid Fund Trustees Meeting Agenda for April 1, 2000, together with copies of the First Hawaiian Bank Agency Agreement, Investment Management Fee Schedule, and Investment Policy Statement referenced in the Agenda.

5. Attached as Exhibit "D" is a true and correct copy of the Mutual Aid Fund Trustees Meeting Minutes for January 20, 2001, together with a copy of the 1999 audited Financial Statements referenced in the Minutes. This is the next Financial Statement to specifically reference Best Rescue Systems, Inc.

6. Attached as Exhibit "E" is a true and correct copy of the Mutual Aid Fund Trustees Meeting Agenda for July 21, 2001, together with a copy of the 2000 audited Financial Statements referenced in the Agenda. This is the next Financial Statement to specifically reference Best Rescue Systems, Inc.

7. Attached as Exhibit "F" is a true and correct copy of the Mutual Aid Fund Trustees Meeting Minutes for May 23, 2004, showing that the Trustees affirmatively ratified the continuation of this pending lawsuit.

8. Before becoming State Director in 2004, I was a member of the UPW staff since 1982, except for a stint as the Director or Deputy Director of the Department of Labor and Industrial Relations for the State of Hawaii from 1993 to May 1997. While a staff member, I attended numerous UPW Board meetings for the union's State Executive Board or the boards of the union-sponsored welfare benefit plans. Generally, these boards invariably followed Mr. Rodrigues' recommendations and advice.

9. Litigation efforts in Florida were not successful in recovering the MAF Trust monies loaned to Best Rescue. The defendants in the Florida actions either failed to pay judgments and/or filed for bankruptcy. The MAF Trust did recover, however, in October 2006, some monies in a confidential settlement with Albert Hewitt's insurer. The MAF Trust is willing to disclose the settlement amount but (1) Rodrigues has never requested it pursuant to a discovery request in accordance with the rules and (2) the disclosure needs to be pursuant to a court protective order because the insurer's payment was subject to a confidentiality clause.

I, Dayton Nakanelua, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, May , 2007.


DAYTON NAKANELUA